

INTRODUCTORY LOCAL LAW NO. 12 OF 2023
CITY OF PORT JERVIS

A LOCAL LAW CREATING ARTICLE III OF CHAPTER 430 (“SHORT-TERM RENTALS”) OF THE CODE OF THE CITY OF PORT JERVIS

BE IT ENACTED by the City Common Council of the City of Port Jervis, Orange County, New York, as follows:

SECTION 1. PURPOSE.

Due to the increase in tourism over the past years in the City of Port Jervis and adjacent local areas, there has been an increase in the number of property owners desiring to rent to tourists and others on a short-term basis. Some property owners in the City of Port Jervis presently list their properties as short-term rentals on web-based booking sites such as AirBNB or VRBO. These short-term rentals offer many benefits to property owners and residents of the City of Port Jervis, but also have the potential to create health, safety and quality of life detriments to the surrounding neighborhood and to the community. Accordingly, the purpose and legislative intent of this local law is to regulate the use and safety of these short-term rentals so as to further secure and promote the public health, comfort, welfare, safety and peace for residents of the City of Port Jervis.

SECTION 2. CHAPTER 430, Article III (“SHORT-TERM RENTALS”).

A new Article III of Chapter 430, entitled “Short-Term Rentals” is hereby enacted as follows:

§ 430-12. Definitions.

As used in this chapter, the following term shall have the meaning indicated:

SHORT-TERM RENTAL

Any portion of a single-family dwelling rented for compensation in exchange for lodging for a period of not more than 29 consecutive days. For the purpose of this Chapter, the term “short-term rental” shall not include a use within the definitions of bed-and-breakfast, hotel, or motel, or month-to-month tenancies.

§ 430-13. Presumption of dwelling unit as short-term rental property.

- A. The presence of the following shall create a presumption that all or a part of a property is being used as a short-term rental:
1. All or a part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO, for a rental period of less than 29 days; and/or

2. All or a part of the property is offered for lease for a period of 29 days or less through any form of advertising.
- B. The foregoing presumptions may be rebutted by evidence presented to the Building Department that the premises is not operated as a short-term rental as defined above.

§ 430-14. Required permit.

- A. Owners shall not use their property as a short-term rental without obtaining a revocable short-term rental permit.
- B. A short-term rental permit shall be valid for two years and must be renewed 30 days prior to expiration of current permit if the premises is to continue to operate as a short-term rental.
- C. The short-term rental permit is not transferable to a new owner. Upon the transfer of ownership of a property that is subject to a short-term rental permit, the new owner of the premises subject to a short-term rental permit must file a new permit application in order to continue to operate as a short-term rental.
- D. Notwithstanding the foregoing, those properties with short-term rental commitments existing on the date this Chapter takes effect shall be permitted to honor such existing commitments and continue to make commitments for short-term rentals, but must apply for a permit within 180 days of the local law's effective date for all future short-term rental commitments. In the event such application is denied, all commitments shall be cancelled.

§ 430-15. Short-term rental permit application requirements.

- A. Applications for a short-term rental permit may be obtained from the City of Port Jervis Building Department. Short-term rental permit applications shall be submitted to the Building Department, accompanied by payment of a nonrefundable permit fee in an amount established from time to time by Resolution of the City Common Council. The application shall include the following:
1. The signatures of all owners or their designated agents.
 2. A statement authorizing the Building Department to inspect the property to ensure compliance with all requirements and standards contained within this Chapter.
 3. An acknowledgement of present and ongoing compliance with the short-term rental standards as defined in this Chapter, including, but not limited to, the demonstration of adequate off-road parking spaces for the proposed short-term rental.

4. A list of each property owner and the name of any manager or management agency managing the property, including names, addresses, telephone numbers and email addresses of each.
 5. The name, address, telephone number and email address of a contact person who shall be responsible and authorized to act on the owners' behalf to promptly remedy any violation of the standards outlined in this Section. The contact person may be an owner or an agent designated by the owner(s) to serve as the contact person, and shall respond to any correspondence or concern from the City Building Department within 24 hours.
 6. An accurate suitable floor plan for each level of the dwelling that can be occupied measuring at least 8.5 inch by 11 inch, drawn to scale and certified by the applicant. The floor plan does not need to be prepared by a professional, but must include the following:
 - a) The location of buildings and required parking.
 - b) Basement: location of house utilities and all rooms including bedrooms, windows, exits and any heating/cooling units.
 - c) First floor: all rooms including bedrooms, windows, exits and any heating/cooling units.
 - d) Second floor: all rooms including bedrooms, windows, exits and any heating/cooling units.
 - e) Attic (if present): all rooms including bedrooms, windows, exits and any heating/cooling units.
 7. A statement that none of the owners of the subject property have had a short-term rental permit revoked within the previous year for any rental properties owned individually or together with others.
- B. All completed applications are subject to a floor plan review and approval by the Building Department.
- C. Owners wishing to apply for a variance relating to sleeping capacity, parking capacity, or other standards stated below must apply to the Zoning Board of Appeals. Variance applications will be reviewed by the Zoning Board of Appeals in accordance with Chapter 535, Article XIX of the City Code.

§ 430-16. Short-term rental standards.

- A. Property requirements. The operation of a short-term rental property is a privilege and not a right.

1. Only single-family dwellings may be used as short-term rental property. Short-term rental of two-or three-family dwellings or multiple dwellings is not permitted.
2. Property must comply with and meet all current NYS Uniform Building Codes, including all requirements for rental properties, and all City of Port Jervis Zoning Code regulations.
3. There shall be at least one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.
4. Evacuation procedures must be posted in each sleeping room to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting or other alarm device.
5. There shall be an ABC fire extinguisher on each floor and in the kitchen. Fire extinguishers shall be inspected prior to a renter occupying the property and no less than monthly by the permit holder(s) to ensure each contains a full charge. A record of the date inspected initialed by the permit holder shall be maintained and made available to the Building Department upon request.
6. The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.
7. Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.
8. Electrical systems shall be in good operating condition, labeled, unobstructed and shall be visible for the Building Department during the permitting process. Any defects found shall be corrected prior to permit issuance.
9. All fireplaces shall comply with all applicable laws and regulations.
10. The property must have a minimum of one off-road parking space for every bedroom shown on the floor plan included with the application.
11. Maximum occupancy for each short-term rental unit shall not exceed what is permitted by all current NYS Uniform Building Codes. In no case shall the maximum occupancy of a short-term rental unit exceed 8 people, including permanent residents and renters.
12. In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any short-term rental unit exceed 8 people total.
13. A septic system at the property must meet all State requirements.

14. The septic system must have been pumped within the last four years and proof of pumping and satisfactory inspection by a qualified septic disposal firm shall be available to the Building Department. Once a short-term rental permit is issued, the septic system must be pumped at least once every four years.
 15. The water supply to the property must meet all State requirements.
 16. One sign identifying the short-term rental shall be allowed measuring no more than six square feet on a side. The sign may be double-sided but not internally illuminated. The location, design and dimensions of the sign shall be reviewed and approved by the Building Department prior to issuance of the permit. If signage is desired after a permit has been issued, the short-term rental permit holder must submit a request for review and approval to the Building Department prior to installation. If the property has vehicular access on more than one road, there may be one sign fronting on each road.
- B. Insurance standards. All applicants and permit holders must provide “evidence of property insurance” and a “certificate of liability insurance” indicating the premises is rated as a short-term rental and maintain such insurance throughout the term of the short-term rental permit.
- C. Provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors, and placed where they are not clearly visible from the road except at approximate pick-up time.
- D. Rental contract: All applicants and permit holders must have a rental contract, which includes the following:
1. Maximum property occupancy;
 2. Maximum on-site parking provided; and
 3. Good neighbor statement providing renters and guests with pertinent information including the following:
 - a) The short-term rental is in a residential area in the City of Port Jervis and that renters and their guests should be considerate of the residents in neighboring homes;
 - b) Renters are requested to observe quiet hours from 11:00 p.m. through 7:00 a.m. Renters and their guests or their invitees shall not engage in any conduct which violates Chapter 381 (“Noise”) of the City Code, or which would otherwise constitute disorderly conduct to or creation of a public nuisance;
 - c) All renters will be subject to New York Penal Law § 240.20 or any successor statute regarding disorderly conduct;
 - d) Littering is illegal;

e) Renters and their guests or invitees shall not block or otherwise impede ingress or egress over the street on which the short-term rental property is located and/or to or from any driveways of other property; and

f) Small recreational campfires must be attended personally at all times.

§ 430-17. Procedure upon filing application.

A. Short-term rental permit applications shall be filed with the City of Port Jervis Building Department with all supporting documentation and the nonrefundable permit fee. Only completed applications will be accepted by the City's Building Department. The Building Department may decline to accept an application for consideration for any of the following reasons:

1. The application and documentation required by this Chapter was not included or the full permit fee was not paid.
2. A previously issued short-term rental permit was revoked within the past year and defects and/or violations have not been corrected and inspected by the Building Department.

B. Upon receipt of a completed short-term rental permit application, adjacent property owners of the short-term rental will be notified of the application by the City of Port Jervis via first class mail, with delivery confirmation notice.

C. Upon the Building Department's acceptance of a complete permit application, including all documents and information required by this Section and the permit fee, the Building Department shall have 30 days to consider any comments received by adjacent property owners of the proposed short-term rental, and to conduct a property inspection to certify that all short-term rental requirements have been met.

D. Upon approval of the short-term rental application by the Building Department, a short-term rental permit will be issued. Short-term rental permits issued pursuant to this Section shall state the following:

1. The names, addresses and phone numbers of each person or entity that has an ownership interest in the short-term rental property.
2. The name, address and phone number of a primary contact person who shall be available during the entire time the short-term rental property is being rented.
3. The maximum occupancy and vehicle limits for the short-term rental property.
4. Identification of the number of and location of parking spaces available.
5. Any conditions imposed by the Building Department and/or Zoning Board of Appeals.

§ 430-18. Conformity and display of permit.

- A. Short-term rental permits are subject to continued compliance with the requirements of these regulations.
- B. If the Building Department has probable cause to believe that the owner of a property subject to a short-term rental permit is not in compliance with the provisions of this Chapter, the Building Department may request permission from the owner to enter the premises and to conduct an inspection of the short-term rental property for purposes of ensuring compliance with this Chapter. If the property owner refuses to permit the Building Department to inspect the property, the Building Department may apply to the Justice Court for an administrative search warrant. If an inspection authorized herein is conducted, the Building Department shall use the results of such inspection in determining whether to revoke the permit.
- C. The short-term rental permit, maximum occupancy limit, maximum parking, contact form and standards shall be prominently displayed inside and near the front entrance of the short-term rental.
- D. The short-term rental permit holder shall ensure that current and accurate information is provided to the Building Department and shall notify the Building Department immediately of any change in the information displayed on the permit. If, based on such changes, the Building Department issues an amended short-term rental permit, the owners must immediately post the amended permit inside and near the front entrance of the short-term rental.
- E. The short-term rental permit holder must conspicuously display the short-term rental permit number in all advertisements for the applicable short-term rental.

§ 430-19. Compliance and penalties.

- A. Violations of this Chapter or of any short-term rental permit issued pursuant to this Chapter shall be subject to enforcement and penalties prescribed in this Chapter.
- B. If the Building Department either witnesses or receives a written complaint of an alleged violation of this Chapter or of any short-term rental permit issued pursuant to this Chapter, the Building Department shall record such complaint, investigate and issue a report thereon. If the Building Department determines there is a violation of this Chapter or of the City Code, the owner shall be notified of said violations in writing by first class mail and certified return receipt mail and the Building Department may take any or all of the following actions:
 - 1. Attach conditions to the existing short-term rental permit.
 - 2. Suspend the short-term rental permit. The notice of suspension shall be provided to the property owner and a copy filed with the City Clerk.

3. Require corrective action that remedies the violation(s). The corrective action must be completed and approved within 30 days of notice from the Building Department or the owner risks revocation of the short-term rental permit.
4. Issue a court appearance ticket for violation of a City law.
5. Revoke the short-term rental permit. Should a permit be revoked, all owners of the short-term rental are prohibited from obtaining a short-term rental permit on the property for one year after the date of revocation. The Building Department shall send notices of revocation to all property owners, and shall file a copy with the City Clerk.

C. Penalties.

1. A violation of this Chapter is an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense. Conviction of a second offense, committed within five years of the first offense, is punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both. Conviction of a third or subsequent offense committed within a period of five years is punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation. A violation which creates an imminent hazard to health and safety shall be punishable by the same fine as above, as well as by imprisonment for a period not to exceed six months per violation.
2. In addition, any person who violates any provision of this Chapter or who fails to do any act required thereby shall, for each and every such violation, pay a civil penalty of not more than \$100. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional penalty.
3. The imposition of penalties for any violation of this Chapter shall not excuse the violation nor permit it to continue. The application of the above penalties or prosecution for a violation of any provision of this Chapter shall not prevent the abatement of a violation. The expenses of the City for enforcement, including legal fees, may be chargeable (in addition to the criminal and civil penalties) to the offender and may be recovered in a civil court of appropriate jurisdiction.

§ 430-20. Application for renewal of permit.

Renewal permits will be granted for an additional two-year term if the following conditions are met:

- A. Application for renewal of the short-term rental permit shall be made at least 30 days prior to expiration of current permit and requires payment of a nonrefundable renewal fee in an amount established from time to time by Resolution of the City Common Council.

- B. At the time of application for renewal, the owner or designated agent must present the prior permit for the short-term rental.
- C. The property must undergo an inspection performed by the Building Department to certify continued compliance with all short-term rental requirements.
- D. Any violations must be remedied prior to renewal of a permit for short-term rental.

§ 430-21. Grounds for suspension or revocation of permit.

A permit for a short-term rental in the City of Port Jervis is a privilege, and not a right. The Building Department may immediately suspend or revoke a short-term rental permit based on any of the following grounds:

- A. Applicant has falsified or failed to provide information in the application for a permit or the application for permit renewal.
- B. Applicant failed to meet or comply with any of the requirements of this Chapter.
- C. Owner is in violation of any provision of the Code of the City of Port Jervis.
- D. Owner has violated any provision of the Penal Code of the State of New York, which violation occurred at, or was related to, the occupancy of the short-term rental.
- E. Any conduct on the premises that disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.
- F. Removal or disrepair of any safety devices including, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.

§ 430-22. Appeals and hearings.

When a property owner's application for a short-term rental permit or a short-term rental permit renewal is denied or a short-term rental permit is suspended or revoked, the property owner is entitled to appeal the Building Department's determination to the Zoning Board of Appeals. A notice of appeal shall be filed with the City Clerk and the Zoning Board of Appeals within 60 days of the Building Department's filing of the denial or revocation with the City Clerk. A hearing shall be held by the Zoning Board of Appeals not more than 45 days after the filing of the notice of appeal. The filing of such appeal will stay the suspension or revocation of the permit or renewal, unless the Building Inspector determines that such stay could cause imminent peril to life and property.

SECTION 3: SUPERSEDING PROVISION.

To the extent that any State or local laws, fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 4: SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 5: EFFECTIVE DATE.

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.